BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR C.G.

W. P. No. 462 /2003

PETITIONER

Sudarshan Behra, son of Shri Lalbahadur Behra, aged about 29 years, resident of village-Ghochal, Tah. Dharamjaigarh, Distt. Raigarh (Chhattisgarh).

VERSUS

RESPONDENTS

1. State of Chhattisgarh, through : Secretary, Department of Village and Rural Development, D.K.S. Bhawan, Raipur (Chhattisgarh)

2. District Collector, Distt. Raigarh (Chhattisgarh)

3. The Sub Divisional Officer, Dharamjaigarh, Distt. Raigarh (Chhattisgarh).

4. The Chief Executive Officer, Janpad Panchayat, Dharamjaigarh, Distt. Raigarh (Chhattisgarh).

5. Chamar Singh Rathiya, Sarpanch, Gram Panchayat Bhojpur, Tah. Dharamjaigarh, Distt. Raigarh (Chhattisgarh).

P. R. No. 33575
Presented by Shri A.K. Dixit
dated 29.01.03

WRIT PETITION UNDR ARTICLES 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS, CERTIORARI AND/OR ANY OTHER WRIT LIKE NATURE.

(62)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 462/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

15-9-2004

Shri A.N. Bhakta, counsel for the petitioner.

Shri Sanjay S. Agrawal, Govt. Advocate for the State/ respondents No.1 to 3.

Shri Ranbir Singh, counsel for respondent No.4.

None for respondent No.5.

Heard learned counsel for the parties.

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India, questioning the legality, propriety and correctness of the resolution dated 29.8.2001 passed by the Gram Sabha issued on 6.9.2001, and the letter issued by the Collector on 28.8.2001, whereby the petitioner's services have been terminated.

Admittedly, the petitioner was working as Secretary, Gram Panchayat: Bhojpur since October, 1995. Vide resolution dated 29.8.2001 passed by the Gram Sabha, the petitioner was removed from the post of Secretary of Gram Panchayat. Being aggrieved by the above resolution passed by the Gram Sabha the petitioner preferred an appeal before the Sub Divisional Officer, Dharamjaigarh. The S.D.O. dismissed the appeal.

The petitioner's main grievance is that he was removed from the post of Panchayat Karmi without following the procedure as envisaged in Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 (hereinafter referred to as 'the Rules, 1999'). It is admitted fact that no enquiry was conducted against the petitioner for misconduct as envisaged in the Rules, 1999. Sub-rule (1) of Rule 7 says that

"No order, imposing on a member of the Panchayat Service, any of the penalties specified in clause (iv) to (via) of rule 5

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

shall be passed except after a formal inquiry is held as far as may be, in the manner hereinafter provided."

Sub-rule (2) of Rule 7 envisages that

"When an order for formal inquiry has been made, the disciplinary authority shall frame Definite charges on the basis of allegations and shall communicate such charges, along with the statement of the allegations, to the member of the Panchayat Service and also require him to submit, within such time as may be specified a written statement of defence and also to state whether he desires to be heard in person."

Sub-Rules (3), (4), (5), (6), (7), (8), (9), (10) and (11) of Rule 7 further prescribe the procedure to be followed before imposing any major penalty specified in clause (iv) to (via).

It is an admitted position that no enquiry was conducted against the petitioner before removing him from the post of Panchayat Karmi as per Rule 7 of the Rules, 1999. Therefore, on this ground, the impugned order dated 29.8.2001 removing the petitioner from the post of Panchayat Karmi is liable to be quashed.

In the circumstances, the impugned order is quashed. However, it is made clear that the respondents are not precluded from conducting fresh enquiry on the misconduct of the petitioner as envisaged in the Rules, 1999.

With the above observations and direction, the petition stands disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

Barve/Soma

[पीछे देखिये